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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/544,365

08/03/2005

Asger Gramkow

GRP-0131

9754

23413 7590 03/17/2008  
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EXAMINER

TRETTEL, MICHAEL

ART UNIT

PAPER NUMBER

3673

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03/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/544,365	<b>Applicant(s)</b> GRAMKOW ET AL.	
	<b>Examiner</b> Michael Trettel	<b>Art Unit</b> 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 33-62 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 33-40, 42-51, 53-61 is/are rejected.
- 7) ☒ Claim(s) 41, 52 and 62 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Objections***

Claim 42 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 42 sets forth subject matter already present in parent claim 39, and as such fails to limit the claimed subject matter.

### ***Claim Rejections - 35 USC § 102***

Claims 33-40, 42-51, and 53-61 are rejected under 35 U.S.C. 102(b) as being anticipated by VanDyke et al (US 5,758,371). VanDyke et al shows an invalid transporter and handling device that comprises a wheel supported housing 6 that supports a seat 15 and a vertically oriented crane used for lifting an invalid from the seat. The housing includes a pair of arms 58 that have freely rotating castors 35 mounted at their ends. Motive wheels 9 are mounted to the underside of the housing and provide both a means for driving and steering the device across a surface. The wheels 9 are mounted upon a pair of vertical pivot sleeves 32 that have gear sprockets 13 attached to the upper ends. A drive chain 61 is operated by an actuator sprocket 92 to turn the sprockets 13 and sleeves 11 which in turn rotates the wheels 9 through a desired angle

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setting. This steers the invalid transporter by setting the drive wheels at any desired angle, read column 8 lines 15-22 for a description of the steering angles used:

*The drive wheels are each rotatable 360 degrees by virtue of the design of the VanDyke assemblies already described herein, but are equipped with stops which enable them only 180 degree rotation, in the preferred form of the invention. This 180 degrees spans from 90 degrees to the left of forward, to 90 degrees to the right of forward. All portions of the VanDyke assemblies are steel, although other materials of construction are contemplated as being suitable such as aluminum or magnesium alloys, stainless steel, resilient polymers or polymeric composites, etc., provided that the overall functioning is the same, namely that it is possible to control the drive speed and the steering independently of one another by the arrangement herein set forth.*

The wheels 9 are also power driven by means of a vertically arranged drive shaft 11 place within each sleeve 32. The drive shaft includes a bevel gear 24 at a bottom end which engages a complementary bevel gear 72 attached to each wheel 9. A gear sprocket 46 is attached to the upper end of the shaft 11, the sprockets are operated by a drive chain 60 which is shown schematically in Figure 6. Rotation of the sprockets 46 by the chain 60 provides motive power to the wheels 9 and allow a user to drive the transporter across a floor surface. Note that the turning and driving operation is controlled by an interface shown in Figure 7 and described in column 8, lines 52-61, column 13, lines 41-67, and column 14. Column 13, lines 41-67 are set forth below:

*The controls box 50 of FIG. 1 is depicted in a larger top view in FIG. 7. The control box contains 8 push button switches 44 on its surface and one joystick 37. The joystick is linear in 4*

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*directions and is of the type which is suitable for motor control to effect variable speed which can also rotate through 360 degrees, and it is through this joystick that electromotive force is regulated to both m1 and m2, i.e., the motor for the propulsion 66 of this Handling Device and the motor 33 which operates the steering actuator 20 hereof. Such joystick 37 is effectively a rheostat in a series circuit between each of these motors and the supply battery. This effective rheostat regulates the voltage and hence the current available to the aforesaid motors. Through such simple arrangement, it is rendered possible to simultaneously control both the forward/backward and the left/right movements of this Handling Device allowing the driver hereof total 360 degree motion and maneuverability.*

#### ***Allowable Subject Matter***

Claims 41, 52, and 62 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

The applicant's arguments filed on 12/13/2007 with respect to the rejection under §102(b) under Campbell et al and under §103(a) in view of Huang have been considered and are persuasive. The rejections based upon these references have been dropped. The arguments made with respect to the VanDyke patent have been considered and are unpersuasive. The rejection under §102(b) in view of VanDyke has therefore been repeated.

The applicant has argued that VanDyke fails to show the use of a feature wherein "at least one of said wheels is directional controllable". This is simply incorrect, VanDyke is replete with statements describing how the rear wheels are both directionally controllable and also act as drive wheels. The rejection as originally written was careful to point out this fact, and has been repeated with additional explanatory matter. The portions of the VanDyke patent that the applicant has asserted support his position do not support it at all, and are actually silent about the operation of the combined drive/steering wheel assemblies. The applicant has also made a general allegation that VanDyke does not show all the subject matter of the claims, but without any details as to what is the subject matter that is not shown. This is not a persuasive line of argument, since it is unclear what the point of novelty is supposed to be.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Trettel whose telephone number is (571) 272-7052. The examiner can normally be reached on Monday, Tuesday, Thursday, or Friday from 7.30 am to 5.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Engle, can be reached on (571) 272-6660. The fax phone number for the organization where this application or proceeding is assigned is (571)-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

/Michael Trettel/

Primary Examiner, Art Unit 3673